

Acton Board of Health

November 15, 2010

Members Present: Mark Conoby, Chairman, William Taylor and William McInnis and Michael Kreuze.

Staff Present: Doug Halley, Health Director and Sheryl Ball.

Others Present: Lee Dietrich, Heather Hurley, James Redmond and Tina Maynard

The meeting was called to order at 7:32 p.m.

Emergency Beaver Trapping Permit

A request has been made by the Natural Resources Department for emergency beaver trapping permits due to beaver activities at the following addresses:

- Fort Pond Brook adjacent to Central Street,.
- Culvert near 98 Charter Road
- Dams located near Kinsley and Flint Road.

The Health Department has confirmed that a threat to public health exists with all the above noted properties and recommends granting a 10 day permit commencing on November 16, 2010.

In addition, the Health Department stated that a 30 day extension could be applied for with the DFW if 10-day emergency permit does not solve the problem.

Acton Public Health Nursing Service – Update- Heather Hurley

Heather Hurley was before the Board to discuss the Nursing Services fiscal challenges and the demand the nursing service encountered last year for the H1N1 clinics. Ms. Hurley stated that we worked closely with the school and we all were able to vaccinate approximately 5,600

people. Acton had one of the highest percentages of vaccinations (almost \$50,000) for a town our size.

The nursing service hired Homecare Management Strategies (HMS) to assess our procedures and we received viable feedback with positive suggestions. Some of the suggestions included, hiring per diem staff, increasing referrals (especially Medicare based) and increase marketing. The Nursing Service was also award the Best Patient satisfaction award.

Ms. Hurley stated that our goals for FY11 are to increase marketing, visibility and implement all the changes that HMS suggested. One of these changes is to purchase an Oasis Scrubber which is software that checks our medical coding to make sure that we are billing Medicare to the maximum extent. McInnis suggested having a photo opt and putting it in local papers. Mr. McInnis also suggested creating a fall prevention sheet and offer copies to our residents. The Board asked Ms. Hurley to keep them updated on the Nursing Service finances.

Housing – Request for Hearing – 4 Rex Lane

The owner of the property located at 4 Rex Lane has requested a hearing before the Board regarding the existing housing code violations at that site. Mr. Redmond is not disputing that violations exist, however, he feels that the current tenant is solely responsible for the damage.

Mr. Conoby stated that each party should present their case one at a time and that the Board will only deal with information presented tonight and that we should establish basis for complaint. The background of this case is a complaint was made by the tenant, Ms. Tina Maynard, an inspection was conducted by the Health Department and violations were noted. There has been no re-inspection at this time. An agreement made by both parties was given to the Board this evening for their review from the Northeast Housing Court.

Mr. Redmond stated that he is asking for this continuance because the tenant was due to leave the unit on November 1, 2010. Ms. Maynard has appealed that order and is awaiting 30 days for appeal court. Mr. Redmond stated that the home was new when he rented to Ms. Maynard and has documentation noting the conditions before occupancy. Mr. Redmond stated that once the eviction notice was issued the house has been routinely vandalized. Mr. Redmond also pointed out that he rents other homes and has no problems with his other units. Mr. Redmond has asked

the Health Department for a comprehensive inspection. Ms. Maynard refused this inspection. Mr. Redmond would like a continuance and wants the Board of Health to conduct a comprehensive inspection. Mr. Redmond stated that the court has stated that all violations need to be corrected by the end of the month.

Ms. Maynard stated that Mr. Redmond has known about repairs cited by the Chelmsford Housing Authority since Feb 2010 and a renewal was signed on Feb 1st. Ms. Maynard stated that water was entering the unit at that time and the court matter was settled between the two of them. Ms. Maynard also stated that the water damage was due to a cracked bathtub. Ms. Maynard also stated that there are mold issues from the water leak. Ms. Maynard stated that no rent has been paid from Section 8 since the order from February by the Chelmsford Housing Authority. Ms. Maynard stated that she went to court today and an agreement was reached to allow Mr. Redmond and his workers access into the property to correct the outstanding Chelmsford violations along with the violations noted by the Health Department on 10/7/2010.

Mr. Conoby asked Ms. Maynard if she agrees to provide access to perform the necessary work at this time. Ms. Maynard stated "absolutely". Mr. Conoby further stated that she must provide access for the Health Department to come back to do the reinspection and that this property could not be re-rented until inspections have been corrected. Dr. Taylor asked Ms. Maynard if she was in favor of a continuance. Mr. Redmond stated that he is in favor of continuance until such a time that the Health Department can conduct a comprehensive inspection. Ms. Maynard also agreed that the Health Department could conduct an inspection of the corrected items only from the violation of 10/7/2010.

Mr. Redmond stated that the leaky pipe that caused the water damage has been repaired 6 times. The last time it was fixed from the exterior and he feels that the tenant is doing the damage. Mr. Redmond submitted photos to the board. Mr. Redmond further stated that he is speaking with Chelmsford Housing Authority for back rent.

Ms Maynard is refusing a full comprehensive inspection. Mr. McInnis suggested that the Board allow for more time so that Mr. Redmond can make the necessary corrections as the continued court hearing is scheduled for November 29, 2010.

On a motion made by Mr. Krueze, seconded by Mr. McInnis, the Board unanimously voted to move the date to November 29, 2010 to correct and re-inspect the current violations only. If access is not allowed the Health Department has the right to issue fines and Mr. Redmond could seek an additional continuance.

22 Nashoba Road – Variance Request:

The Health Department is in receipt of a request for local upgrade approval 310 CMR 15.211(1) for a reduction from a SAS to wetlands from 50' to 32.5' and a variance from article 16-6.2.7 for a reduction from a SAS to wetlands from 100' to 32.5' for the property located at 22 Nashoba Road. The site is restricted by 25% of the lot is within the wetlands and the lot is intersected by Zone 3. The engineer states that this is the only viable solution. The Health Department recommends approval provided that the system is redesigned to utilize nitrogen reduction technology approved by MADEP and the installed in compliance with MADEP I/A approval letter.

On a motion made by Mr. McInnis, seconded by Mr. Krueze, the Board unanimously voted to grant a variance from Article 16-6.2.7 and 310 CMR 15.211(1) to the property located at 22 Nashoba Road with the following conditions:

1. The system be redesigned to utilize nitrogen reduction technology approved by MADEP and the system is installed in compliance with all applicable conditions of the MADEP I/A approval letter associated with that technology.
2. The Health Director may implement any reasonable conditions.
3. The revised plan shall be submitted to the Health Department for approval.

Amendment Septic Policy #033009

The Board reviewed the proposed changes to septic policy #033099. The Health Department reviewed the changes with the Board. One of the changes allows the Health Department to

approve a SAS over 2,000 gpd within 100' of a wetland as long as it is no closer than 50' and has nitrogen removal technology.

On a motion made by Mr. McInnis, seconded by Mr. Kreuze, the Board unanimously voted to amend policy #033009 in accordance with the recommendations from the Health Department memo dated 11.9.10 as amended.

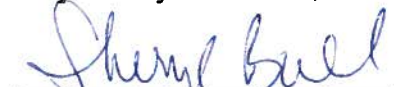
Other

- Mr. Halley stated that Quail Ridge has filed for bankruptcy. The Board asked if all the outstanding fines have been paid. Mr. Halley stated that the 50,000 fine has been paid and \$20,000 of the SEP and most likely will not receive the additional owed as there are lines of secured creditors in front of us.

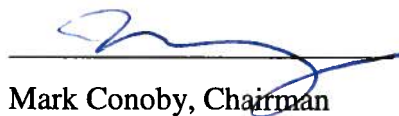
Adjournment

On a motion made by Mr. McInnis, seconded by Dr. Taylor, the Board unanimously voted to adjourn at 8:55 PM.

Respectfully Submitted,



Sheryl Ball, Health Secretary
Acton Board of Health



Mark Conoby, Chairman
Acton Board of Health

Town of Acton Board of Health

Meeting Agenda

**November 15, 2010
Acton Memorial Library
7:30 p.m. – 9:00 p.m.**

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7:30

**Emergency Beaver Trapping Permit
Fort Pond Brook**

7:45

APHNS update – Heather Hurley

8:00

**Housing – Request for Hearing
4 Rex Lane**

8:20

22 Nashoba Rd – Variance Request

8:35

**Amendment to Board of Health Septic Policy
03.30.09**

Minutes

October 18, 2010

Doug Halley

From: Tom Tidman
Sent: Monday, October 25, 2010 5:25 PM
To: Isabel Roberts; Doug Halley
Subject: Beaver Trapping Permit - request

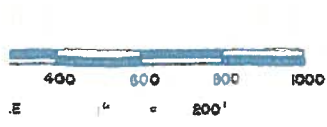
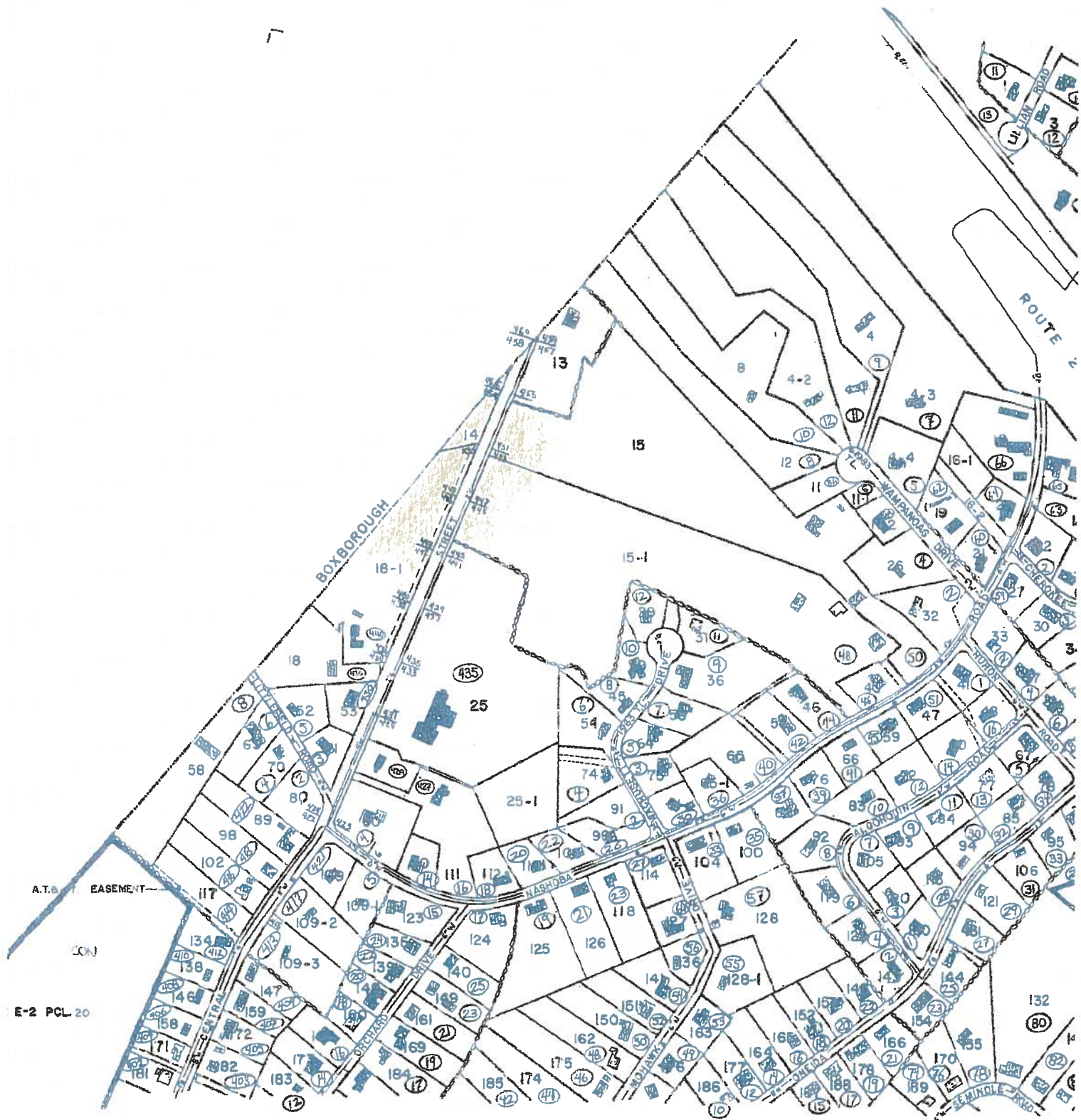


Scan from a Xerox
WorkCentre00...

(i) The Acton Highway Department has temporarily lowered water levels in Fort Pond Brook adjacent to Central Street (near Rt. 2 and the Acton/Boxborough town-line) by removing a beaver dam; this safety concern will occur repeatedly this fall and winter. We request permission to trap beavers at this Fort Pond Brook culvert location (see attached plan).

(ii) Beavers have dammed the culvert running under Charter Road near 98 Charter Road, (see attached plan). We request permission to trap beavers at this location.

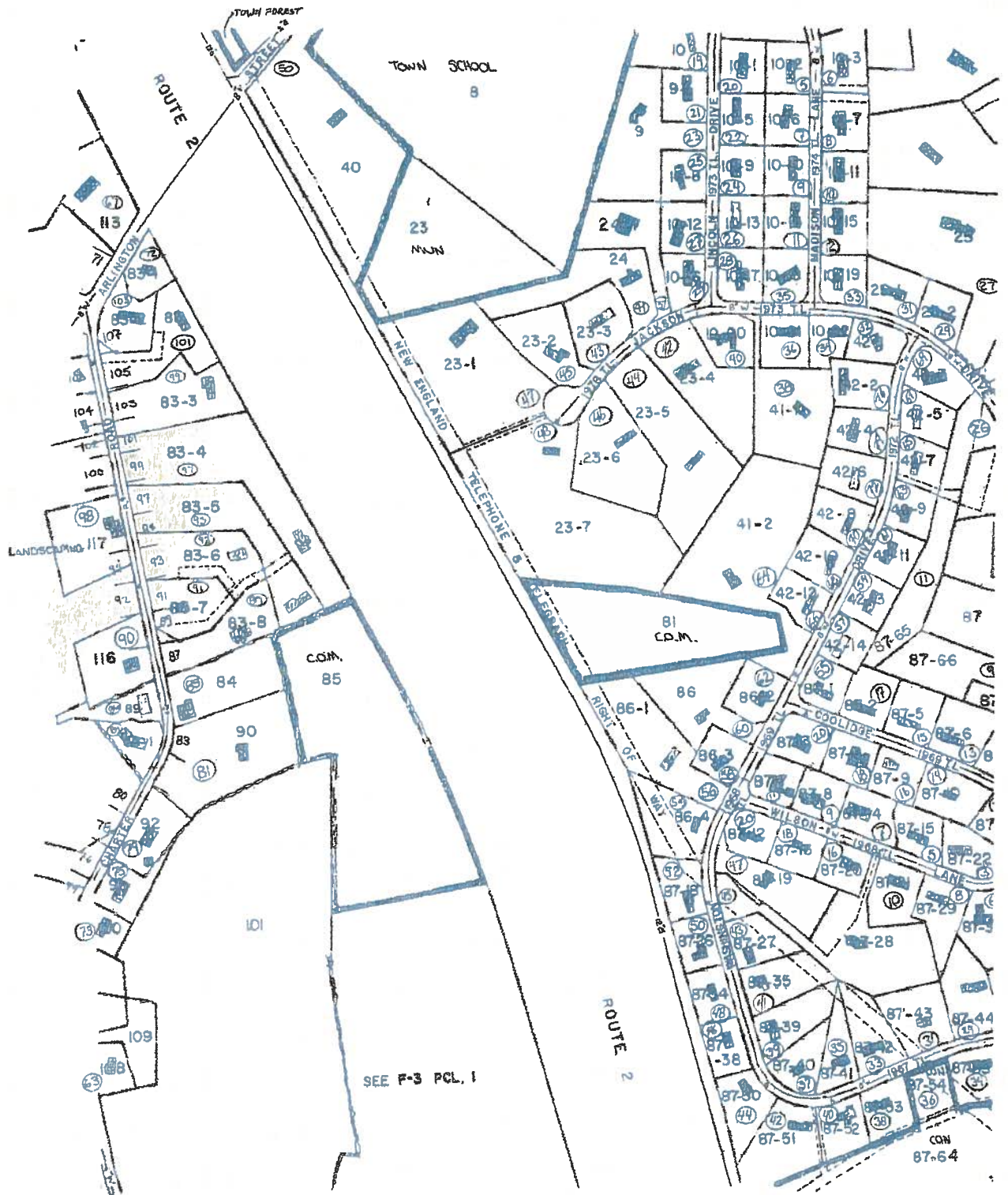
(iii) We have received numerous complaints from residents on Kinsley Rd. and Flint Rd. concerning flooding resulting from a series of beaver dams on Fort Pond Brook, (see attached plan). We request permission to trap beavers in the general location illustrated on the attached plan.



	C-2	C-3
	D-2	D-3
E-1	E-2	E-3

PHOTO AER. SERVICE 12-1-63

TOWN of



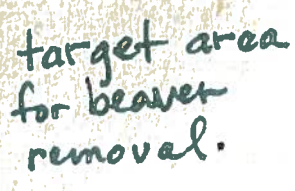
SEE F-3 PCL. 1



D-2	D-3
E-2	E-3
F-2A	F-3
F-2B	

PHOTO AERO SET

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F-2B



Acton Board of Health

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Acton, MA 01720
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Email: Health@acton-ma.gov



Doug Halley, Health Director

November 10, 2010

To: Board of Health
From: Isabel Roberts

RE: Hearing – 4 Rex Lane

On October 7, 2010 the Health Department conducted a Housing Inspection at the request of Ms. Tina Maynard who resides at 4 Rex Lane. The Housing Inspection revealed a number of violations of 105 CMR 410, Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II).

An order letter was mailed to the owner of record, James Redmond on October 14, 2010, stating that violations were found and a time frame in which to correct them.

On October 18, 2010, the Health Department received a request from the owner of record for a hearing in the form of a written petition. At that time the owner also provided additional documents that include; photos of the interior, rental lease and section 8 housing inspections.

The owner of record is not disputing that violations exist at 4 Rex Lane, however, he is appealing the order based on the understanding that the current tenant is solely responsible for damage to the property.

Jay Redmond
Redledge LLC
5 Ledge Rock Way
Acton MA 01720
Telephone 978-423-7958
Fax 978-635-1748

Attn:
Isabel Roberts

I am responding to your letter dated 10/14/10, Re owner of 4 Rex Lane.

I as the landlord of 4 Rex Lane in Acton, have a number of concerns. As you are aware due to documents submitted to your office the tenant move in date was on May 1, 2004 and agreed the house was in new condition.

As you can see there has been a great a deal of damage done since move in. I do however understand you did not inspect the property on an ongoing basis, but I believe the move in condition report supports my case of neglect and damage by the tenant.

I would formally like to request a complete inspection of the property by your office. I feel the tenant has created both a health hazard and a fire hazard threw abuse and neglect within the dwelling. Please observe trash in basement as well as multiple extension cords and over crowding both by furniture, clothes and occupants.

Ms. Maynard also has a car parked in the driveway cluttered with what appears to be food and trash I believe this car is unregistered and is in violation of town by laws and would like it removed. I have viewed a collapsed pool in the back yard partially full of water it appears to have some water in it and is situated over the septic system.

On the last several septic pump outs the septic tank was full of baby type wipes Bancroft Silva septic service has spoken to the tenant at each pumping on how this will damage the septic system; please remind Ms. Maynard that this is not a good practice unless the wipes are septic safe. I will be forwarding a water bill readout to you to show the excessive water usage at this residence.

As you are aware, the tenant has been ordered by the court to vacate the premises by November 1st, 2010. I will be gutting the home at this time due to the extreme nature of the damage by the tenant.

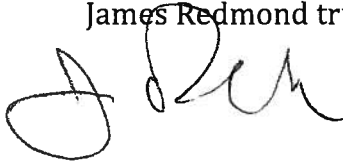
As for your list:

- I will be requesting that Ms. Maynard remove the contents of both rooms in order to view and make repairs as soon as possible.

- Linoleum repair to be made upon cleaning of bathroom.
- Repair leak in Basement has been corrected via exterior repair
- The damage to the master bedroom wall will require opening up the wall. I have not seen this at this point. Ms. Tina Maynard will have to remove the clutter from bedroom in order for the damage to be assessed.

I would like to request a hearing with the board of health to show that the damage that has to be repaired at this location due to the tenants neglect and as you are aware this is a violation of the housing code. The tenant will be vacating on November 1, 2010 as per court order it may take this long to start repairs due to the poor condition and overcrowding of the residence.

Thank you
James Redmond trustee

 trustee



TOWN OF ACTON
Health Department
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9634
Fax (978) 264-9630

October 14, 2010

Owner of Record

James Redmond
5 Ledge Rock Way
Acton, MA 01720

Property Location

4 Rex Ave
Acton, MA 01720

In accordance with Chapter 111, Sections 127A and 127B of the Massachusetts General Laws and State Sanitary Code, Chapters 1 and 2: "Minimum Standards of Fitness for Human Habitation", 105 CMR 410.00, a site visit was made on October 7, 2010 to the above-referenced property.

The site visit revealed a number of violations of the State Sanitary Code. You are hereby ordered to correct these violations in a workmanlike fashion in the amount of time noted, from the date of service of this order.

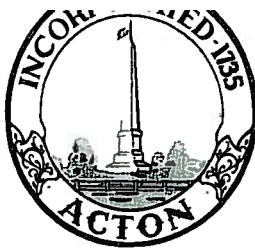
You may request a hearing before the Acton Board of Health by filing a written petition to the Board within seven (7) days of your receipt of this order. At the hearing, you will be given an opportunity to be heard and to present witnesses and documentary evidence as to why this order should be modified or withdrawn. You may be represented by an attorney. You have the right to inspect and obtain all relevant documents relating to this matter from the Acton Board of Health Office, 472 Main Street, Acton, MA 01720 from 8:00 a.m. to 5:00 p.m. Monday through Friday. Any adverse party has the right to appear at the hearing.

Any person who shall fail to comply with any order issued pursuant to the provisions of the State Sanitary Code, Chapter 2, shall, upon conviction, be fined not less than ten (\$10.00) nor more than five hundred (\$500.00) dollars. In addition, for each infraction of the State Sanitary Code, this office can issue fines in the form of non-criminal disposition tickets. Each day's failure to comply with this order shall constitute a separate violation.

Respectfully,

Isabel Roberts
Health Agent
Acton Board of Health

Cc. Tina Maynard



Health Department
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9634
Fax (978) 264-9630

VIOLATION FORM

Owner of Record

James Redmond
5 Ledge Rock Way
Acton, MA 01720

Property Location

4 Rex Ave
Acton, MA 01720

<u>Violation</u>	<u>Regulation</u>	<u>To Be Corrected</u>
The occupant shall be responsible for maintaining free from obstruction all means of exit...	410.451	
Correct – Remove items from stairwell leading to basement		7 days
Owners responsibility to maintain free from defect all facilities and equipment which the owner is required to provide...	410.351 (A)	
Correct – Repair or replace linoleum flooring in bathroom		30 days
Correct – Repair leak in basement foundation around pipe area.		30 days
Correct – Repair or replace carpet area and wall in master bedroom, which appears to be damaged due to chronic dampness.		30 days



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Doug Halley, Health Director

MEMO TO FILE

It should be noted that upon the requested housing inspection at 4 Rex Lane on October 7 2010, a comprehensive inspection was declined.

While conducting the housing inspection I observed the following:

1. Unit interior - Accumulation of debris including, but not limited to, cardboard boxes, clothing, garbage and rubbish obstructing egress, creating rodent harborage areas and accident hazard. The occupant is responsible to maintain their unit in a clean and sanitary manner, exercise reasonable care of structural elements and maintain all egresses in their unit free from obstructions.
105CMR410.602(B), 410.505 and 410.451
2. Kitchen – Cupboard doors were not attached to their hinges, making it difficult to keep clean and also not fit for purpose.
105CMR410.100

Isabel Roberts
Health Department



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Public Health
Prevent. Promote. Protect.

Doug Halley, Health Director

11/10/10

To: Board of Health
From: Justin Snair, Health Dept.
Re: 22 Nashoba Rd Variance Request

The Health Department is in receipt of a request for local upgrade approval pursuant with 310 CMR 15.00 and a request for variance from Board of Health Art. 16 for the replacement of the onsite wastewater system currently serving the 440 gpd dwelling located at 22 Nashoba Rd.

Specifically, the following requests have been made:

Art. 16-6.2.7 Sewage disposal system shall be a minimum 100 feet from flood plain and/or wetlands.

Required: 100 ft
Provided: 32.5 ft

30 CMR 15.211(1) All systems must conform to the minimum setback distance for septic tanks, holding tanks, pump chambers, treatment units and soil absorption systems, including reserve area, measured in feet and set forth as below:

SAS to Bordering Vegetated Wetland (BVW),
Required: 50 ft
Provided: 32.5 ft

Department findings:

The property has restrictive characteristics preventing compliant siting of the system. The Aquifer Zone 3 and Zone 4 boundary intersects the lot (see attached) and wetlands encroach onto approximately 25% of the property.

The Health Department discussed alternative placement of the system to the north-east corner of the property, however the designer indicates placement there would not be possible.

Department Recommendations:

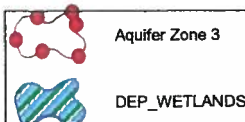
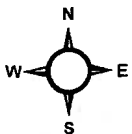
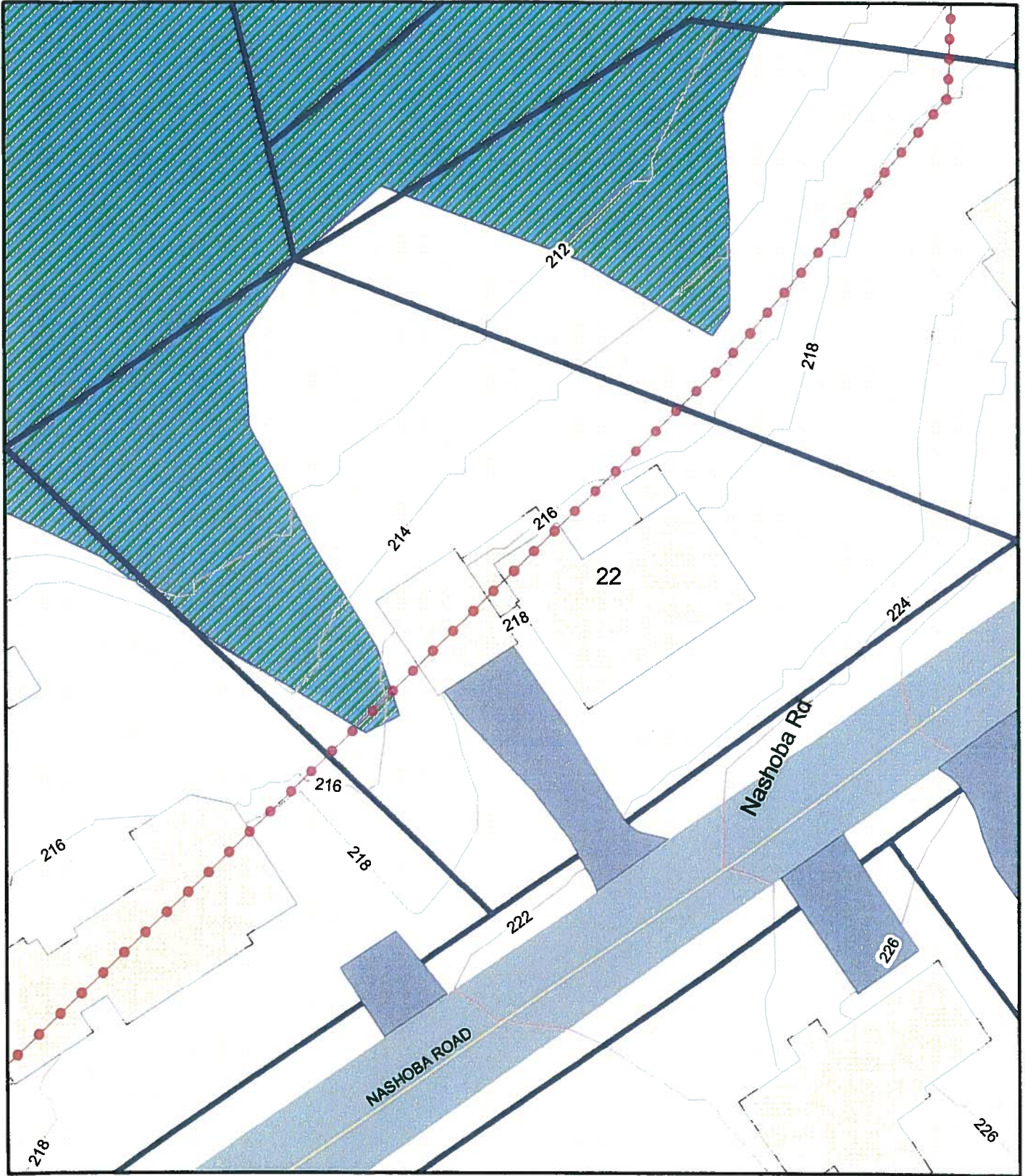
The Health Department recommends approval of requested variances provided that the system is re-designed to utilize nitrogen reduction technology approved by MA DEP and the system is installed in compliance with all applicable conditions of the MA DEP I/A approval letter associated with that technology and any reasonable conditions deemed necessary by the Health Director.



Town of Nashoba
Health Department

Board of Health Variance Hearing 22 Nashoba Rd

Drawn By: JTS 11/10/10





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Doug Halley, Health Director

11/09/10

To: Board of Health
From: Justin Snair, Health Dept.
Re: Septic Policy #033009 Amendment

The Health Department requests to amend Board of Health Septic Policy #033009 with the following language:

11-6.1.2.

No sewage disposal system with a capacity of 2,000 gallons per day or greater shall be constructed within one hundred (100) feet of any wetland (Any land area or surface area so defined by the Massachusetts Wetland Protection Act, MGL, Ch.131, s. 40 and/or the Town of Acton Wetlands Protection Bylaw.)

Approved Health Department Action:

The Public Health Director may approve a reduction of fifty (50) feet or less provided that nitrogen removal technology will be included within the constructed sewer disposal system or a contribution in lieu of compliance has been made to a fund managed by the Health Department to monitoring impact to nearest sensitive receptors. Such approval will be subject to the "Standard Conditions" imposed on each permit issued by the Acton Board of Health and reasonable conditions for compensating environmental compliance that the Director sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks, barriers, and/or use of I/A technology.

16-6.2.7

Sewage disposal system shall be a minimum 100 feet from flood plain and/or wetlands

Approved Health Department Action:

The Public Health Director may approve a reduction of fifty (50) feet or less provided that nitrogen removal technology will be included within the constructed sewer disposal system or a contribution in lieu of compliance has been made to a fund managed by the Health Department to monitoring impact to nearest sensitive receptors. Such approval will be subject to the "Standard Conditions" imposed on each permit issued by the Acton Board of Health and reasonable conditions for compensating environmental

compliance that the Director sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks, barriers, and/or use of I/A technology.



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Doug Halley, Health Director

ONSITE WASTEWATER SYSTEM POLICY #033009

Introduction

The Acton Board of Health, through the adoption of this policy, finds that certain variances and approvals allocated to the Local Approving Authority pursuant to the applicable sections of 310 CMR 15.00; and variances to specific sections of Articles 11 and 16 of the Acton Board of Health Regulations are allowed to be granted by the Public Health Director in accordance with this document.

This policy shall only govern the granting of variances and approvals for repair and/or replacement of malfunctioning onsite wastewater systems. Any proposal requesting a variance or approval listed in this document that meets the definition of "new construction" as listed in 310 CMR 15.002, unless otherwise noted as included, shall be required to seek the necessary variance or approval at a regular meeting of the Acton Board of Health through already established procedures.

Variances and Approvals Allowed Under this Policy

310 CMR 15.000 (Title 5) – *citations are taken directly from the regulations*

Local Upgrade Approvals pursuant to 310 CMR 15.405(1)

310 CMR 15.405(1)(a)

Reduction of system location setbacks otherwise established in 310 CMR 15.211 for property lines provided that the system is within the property lines, a survey of the property line is required if a component is to be placed within five feet of the property line, and no such reduction shall result in the soil absorption system being located less than ten feet from a soil absorption system on an abutting property;

Approved Health Department Action:

The Public Health Director may approve a reduction to the required setback to property lines by no more than half than the required under 310 CMR 15.211 and such approval will be subject to the "Standard Conditions" imposed on each permit issued by the Acton Board of Health and reasonable conditions for compensating environmental compliance that the Director

sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks.

Reduction by more than half the required setback to property line shall require Board of Health action.

310 CMR 15.405(1)(b)

Reductions of system location setbacks from cellar wall, crawl space, swimming pool, or slab foundations; an increase in the maximum allowable depth of system components required by 310 CMR 15.221(7), from 36" to 72" below finish grade, provided that adequate venting and adequate access are provided and H-20 loading is provided for all system components; a decrease in the liquid depth of the septic tank required by 310 CMR 15.223(2) from four feet to three feet;

Approved Health Department Action:

The Public Health Director may approve a reduction to the required setbacks to cellar wall, crawl space, swimming pool, or slab foundation by no more than half the required under 310 CMR 15.211 and such approval will be subject to the "Standard Conditions" imposed on each permit issued by the Acton Board of Health and reasonable conditions for compensating environmental compliance that the Director sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks.

Reduction by more than half the required setbacks to cellar wall, crawl space, swimming pool, or slab foundation shall require Board of Health action.

310 CMR 15.405(1)(c)

Up to a 25% reduction in the required subsurface disposal area design requirements;

Approved Health Department Action:

The Public Health Director may approve up to a 25% reduction to the required subsurface disposal area design requirements and such approval will be subject to the "Standard Conditions" imposed on each permit issued by the Acton Board of Health and reasonable conditions for compensating environmental compliance that the Director sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks.

Reduction by more than 25% of the required subsurface disposal area design shall require Board of Health action.

310 CMR 15.405(1)(g)

Reduction of system location setbacks from water supply lines

Approved Health Department Action:

The Public Health Director may approve a reduction of system location setbacks from water supply lines provided that disposal facilities are at least 18 inches below water supply lines and whenever sewer lines must cross water supply lines, both pipes shall be constructed of a class 150 pressure pipe and shall be pressure tested to assure watertightness and such approval will be subject to the "Standard Conditions" imposed on each permit issued by the Acton Board of Health and reasonable conditions for compensating environmental compliance that the Director sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks, barriers, and/or use of I/A technology.

310 CMR 15.405(1)(h)

The local Approving Authority may reduce the required four foot separation (in soils with a recorded percolation rate of more than two minutes per inch) or the required five foot separation (in soils with a recorded percolation rate of two minutes or less per inch) between the bottom of the soil absorption system and the high groundwater elevation only if all of the following conditions are met:

1. An approved Soil Evaluator who is a member or agent of the local Approving Authority determines the high groundwater elevation.
2. A minimum three foot separation (in soils with a recorded percolation rate of more than two minutes per inch) or a minimum four foot separation (in soils with a recorded percolation rate of two minutes or less per inch) between the bottom of the soil absorption system and the high groundwater elevation is maintained.
3. The system is a failed or non-conforming system serving an existing building with a design flow of less than 2,000 gpd.
4. No increase in design flow is allowed.
5. No reduction in required soil absorption system size or setbacks from public or private wells, bordering vegetated wetlands, surface waters, salt marshes, coastal banks, certified vernal pools, water supply lines, surface water supplies or tributaries to surface water supplies, or drains which discharge to surface water supplies or their tributaries, is allowed.

Approved Health Department Action:

The Public Health Director may approve a reduction of the required separation to ESGHW when the criteria listed above are met and such approval will be subject to the "Standard Conditions" imposed on each

permit issued by the Acton Board of Health and reasonable conditions for compensating environmental compliance that the Director sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks.

310 CMR 15.405(1)(i)

A sieve analysis may be performed in accordance with Department guidance if a percolation test in accordance with 310 CMR 15.104 and 15.105 can not be performed as determined by the local Approving Authority.

Approved Health Department Action:

The Public Health Director may approve a sieve analysis provided that the total daily flow of the site where analysis will be performed does not exceed 2000 gpd.

310 CMR 15.405(1)(j)

Reduction of the requirement of a 12 inch separation between the inlet and outlet tees and high groundwater.

Approved Health Department Action:

The Public Health Director may approve a reduction of the required separation provided ESGHW elevation does not exceed the elevation of the invert of the inlet/outlet and provided that all boots or pipe joints are sealed with hydraulic cement or installed with watertight sleeves and the tank is proven watertight. Expandable foam spray is not an acceptable alternative for sealing pipe joints.

310 CMR 15.405(1)(k)

The two deep holes per disposal area as required by 310 CMR 15.102, may be reduced to one provided at least one deep hole has been performed in the proposed disposal area.

Approved Health Department Action:

The Public Health Director may approve a reduction to the required number of deep holes per disposal areas if it has been determined by the Health Department that the deep hole adequately characterizes the soils for the purpose of designing the soil absorption system.

Alternative System Use Approvals pursuant to 310 CMR 15.281 through 310 CMR 15.288

Alternative technologies with valid MassDEP general, remedial, provisional or piloting approval letters used to improve existing conditions at particular sites (including upgrade or

replacement of failed or nonconforming systems) which only require the authorization of the Local Approving Authority are subject to this policy.

Approvals which require submission to MassDEP are **not** subject to this policy and require Board of Health action.

Alternative technologies with valid MassDEP general, remedial, provisional or piloting approval letters used for “new construction” as defined by 310 CMR 15.002, unless otherwise included in future policy amendments, are **not** subject to this policy and require Board of Health action.

Articles 11 and 16 of the Acton Board of Health Regulations

Siting of Onsite Wastewater Systems

11-6.1.1

No sewage disposal system with a capacity of less than 2,000 gallons per day shall be constructed within seventy-five (75) feet of any wetland (Any land area or surface area so defined by the Massachusetts Wetland Protection Act, MGL, Ch.131, s. 40 and/or the Town of Acton Wetlands Protection Bylaw.)

Approved Health Department Action:

The Public Health Director may approve a reduction twenty-five (25) feet or less provided that nitrogen removal technology will be included with in the constructed sewer disposal system and such approval will be subject to the “Standard Conditions” imposed on each permit issued by the Acton Board of Health and reasonable conditions for compensating environmental compliance that the Director sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks, barriers, and/or use of I/A technology.

Reduction by more than twenty-five (25) feet shall require Board of Health action.

16-4.2.10

All leaching areas within an aquifer zone shall be set back one hundred (100) feet from any recharge, retention, detention or surface drainage area.

Approved Health Department Action:

The Public Health Director may approve a reduction fifty (50) feet or less provided that nitrogen removal technology will be included with in the constructed sewer disposal system and such approval will be subject to the “Standard Conditions” imposed on each permit issued by the Acton Board of Health and reasonable conditions for compensating environmental compliance that the Director sees fit to impose on the project, such as, but not limited to, use of dual compartment tanks, effluent tee filters, and/or additional settling tanks, barriers, and/or use of I/A technology.

Reduction by more than fifty (50) feet shall require Board of Health action.

Procedure for Variance Requests

- 1) Applicant submits a request for the approvals and/or variances in the form of a letter to the by Acton Health Department office.
- 2) The Environmental Health Inspector will review the requests using the following standards.
 - (a) The person requesting a variance/approval has established that enforcement of the provision of 310 CMR 15.000 or Article 11 and 16 of the Acton Board of Health Regulations from which a variance is sought would be manifestly unjust, considering all the relevant facts and circumstances of the individual case; and
 - (b) The person requesting a variance/approval has established that a level of environmental protection that is at least equivalent to that provided under 310 CMR 15.000 or Article 11 and 16 of the Acton Board of Health Regulations can be achieved without strict application of the provision of 310 CMR 15.000 or Article 11 and 16 of the Acton Board of Health Regulations from which a variance is sought.
- 3) The Environmental Health Inspector will then submit the results of his/her review along with a recommendation to the Public Health Director for final determination.
- 4) The Public Health Director may then grant and/or deny the variance(s)/approval(s) requested by the applicant in part or as a whole. The Public Health Director will notify the applicant in writing of his/her determination.
- 5) Variances and/or approvals issued by the Public Health Director will be subject to the "Standard Conditions" imposed on each permit issued by the Acton Board of Health and any reasonable conditions as the Director sees fit to impose on the project.
- 6) The variance(s) and/or approval(s) granted by the Public Health Director shall run concurrent with the Disposal Works Construction Permit and shall expire two (2) years from the date of issuance, with the option, as allowed Acton Board of Health Regulations 11-3.1, of a one (1) year extension.
- 7) The Public Health Director may, at his/her judgment, refer any application for variances/approvals to the Board of Health for action at their next regular meeting.
- 8) The applicant may request an appeal of decision before the Acton Board of Health, provided that such request is submitted to the Health Dept in writing.

Approval of Policy by the Board of Health

This policy (Policy #033009: Onsite Wastewater System Variance Policy) is hereby approved by the Acton Board of Health and shall become effective on May 18th, 2009.

The Acton Board of Health reserves the right to modify and/or rescind this policy at their discretion, through a majority vote of the Board.

Signed, this May 18th, 2009

Sam Bick

Wm. Martin

Paul Henry-Sanct

William Taylor

14 November 1a, 2010

TO: Board of Health
FROM: Tina Maynard
RE: Hearing - 4 Rex Lane

I understand James Redmond is claiming that I am Responsible for the damage to his property at 4 Rex Lane. Jay Redmond is not disputing the code violations the health department Revealed during the inspection on October 7, 2010. I Dispute that I am Responsible for the following Reasons.

1. Correct leak in Basement Foundation AROUND PIPE AREA.

Facts ON 3/6/08 PHI failed the inspection for a crack in basement (a) sewer connection ON 6/5/08 the 2ND inspection PASSED He simply covered the cracks from the inside

Between 6/5/08 to February 2010 I had called him on several occasions. I had let him know that During Rain Storms the Cement wall was getting wet. He DIDN'T Fix It.

ON February 24, 2010 the Cement wall that Should have been Repaired turned into a hole. Water was coming in the basement and we were filling buckets every ten minutes.

See Attached Sheets Regarding his Response

On August 11, 2010 Jay was sent another letter from Chelmsford Housing Authority.

Stating your unit has been failed since Feb 9, 2010. On April 13, 2010 he stated that he would contact the inspection company as soon as repairs were complete. To Date a re-inspection has not take place. This is our final attempt to gain his cooperation and Request Repairs. All Repairs muse be completed and passed by August 31, 2010 IF he fails to make Repairs our Office will be forced to terminate our HAP Contract. Jay DID NOT Fix Anything.

ON Oct 7, 2010 Isabel Roberts put leak in Basement foundation around pipe area a violation.

Clearly I am not Responsible for this violation.

2. Repair or Replace carpet area and wall in master bedroom, which appears to be damaged due to chronic Dampness.

On January 20, 2008, I sent a letter to Jay Redmond Regarding water coming in my bedroom from the bathroom. The carpet on the side where the bathtub is was drenched. It had been over a year since I called Jay about the cracks in the bathtub. He put Duct tape over the cracks and I told him several times the Duct tape does not stay on when we took Baths. The cracks were on the bottom of the tub. I also told him the floor in the bathroom was caving in. I asked him to please call me and let me know when he could fix the tub. He Did nothing.

On March 6, 2008 PHI failed inspection for a cracked tub

On April 6, 2008 A Month later after he failed the tub was finally fixed HAD Jay Redmond fixed the cracks in the tub when he was notified water from The tub never would have leaked into

be repaired. When I went to court I had Wendy Gomez served with a subpoena. She told me they'd have to handcuff her to testify. She didn't go to court when the case was heard. She told me Jay Redmond has a lot of clout in town and she was afraid he'd retaliate against her. She refused to write a letter. I can't believe I can't get Wendy to testify to what she knows about Jay Redmond. I've been in her home and I've seen where the bathroom floor came up and water stains in her basement ceiling where the water came in from the cracked tub. Jay took a long time to fix her tub. Wendy's Basement is finished but Jay Redmond has not reported this to the town. The town Records shows Six Rex Lane as an unfinished Basement. Jay Redmond didn't get a building Permit to finish her Basement. I know for a fact its been finished since November 2004. This clearly shows that Jay Redmond is not Reporting to the town the fact his basement is finished. Its Dishonest.

As far as the damage in my bedroom its due to a cracked tub. I did not damage the tub. Three tenants had a problem with their tub. His Response USE DUCT TAPE. He Blames his tenants when theres a Repair.

3. Repair linoleum flooring in bathroom

ON 3-6-08 PHI Inspections failed

Jay Redmond for linoleum coming up by shower also cracked tub possibly leak into master bedroom

Jay Redmond knew about the bathtub having cracks in it for well over a year.

The letter I wrote to him on Jan 20, 2008 told him about the floor in the bathroom.

The water from the tub went into my bedroom AND the floor in the bathroom.

Jay Redmond should have fixed the cracks in the tub. Had he fixed it right away there would not be any damage to his floor. When we went to court for the eviction I showed the judge the inspections, pictures, letters. He awarded me \$1800.00 for breach of warranty of habitability due to various conditions of disrepair which occurred during the tenancy. Jay claimed I damaged the floor yet the Judge did not award him money for damage.

for a modular home he paid approx
40,000 in 2001 he can afford to fix
problems when they occur. He chose not
to do it in a timely manner. Instead
he blames his tenant and takes way too
long to fix the problem. If he fixed
the tub right away there wouldn't be the
damage in his house. The fact that
three tenants that I know of on
Rex lane had problems with their tub
clearly shows that the tub is not very
well made. For Wendy Gomez who
is my next door neighbor at 6 Rex lane
and Rents from Jay Redmond had
cracks in her tub and Kalana
Richardson who is a school teacher at
Merriam had a hole in her bathtub
who rented from Jay shows a problem
not with the tenant but with the tub.
When we went to court Jay Redmond
stated my living room carpet that I
ended up replacing got moldy because

Jay charged Case Transportation
\$300 for a mailbox they broke when
picking up my kids for school. The
mailbox he put up was old and all
Rusted inside and the post is old.
This shows how Dishonest this man is.
See the picture of the mailbox. It
shows its all Rusted inside and the
post is old yet he charges Case
Transportation (who picks up children
with special needs) \$300. If this
doesn't show a lack of character I
don't know what does. There's a lot more
I can say but I think I've proved
my point.

On Feb 24, 2010, I called Jay Redmond late in the afternoon, and I told him that water was coming in the basement. (The crack that had failed inspection had turned into a hole it was located near the sewage pipe) I told him we were emptying buckets every ten minutes.

He told me there was nothing he could do until tomorrow and keep emptying the buckets and he hung up. The water that was coming in was located near the furnace. There was no sub-pur in the basement. Jay lives down the street and his excavating business is almost across the street yet he couldn't help. I called Kelleher Plumbing and I asked if they could come over and help. (Kelleher Plumbing is right down the street) and they told me they'd sent someone over. Shortly after calling them Jay called me back and said what did I tell you. Don't call Kelleher Plumbing again or its going to come out of your pocket I told you what to do just do it. (Kelleher Plumbing had called Jay and

On Feb 25, 2010, I called State Senator
Jamie Eldridge and I asked him if he
could help me. I told him what had
happened the night before. I also told
him that Jay Redmond has constantly
made comments to me saying If he
evicted me I would lose my Section 8
and everytime I needed a repair
he blamed it on me. He told me he'd
call him and he did. That same night
when we got back from the grocery
store the basement had filled up on
one side with water. (Jay was at my
house the day before covering the hole)
Clearly it didn't work because the hole
came back and water was coming in.
There was a big hole on the floor in
the basement (I don't know what you call it,
but we started getting the water on the
floor towards the hole. I called Jami
and he called the Fire Dept. The Fire
Dept came out (I have a copy) and they
helped redirect the water. The next
day Jay Redmond called me and told
me he was evicting me and he sold
his house. I got a notice to quit
on March 1, 2010 & March 3, 2010

























